



## ***BUSINESS ADVISORY COUNCIL MEETING MINUTES***

**DATE:** Wednesday, April 15, 2015

**TIME:** 1:13 p.m. to 3:18 p.m.

**LOCATION:** 455 Golden Gate Avenue, San Francisco, CA – Milton Marks Auditorium

### **CALIFORNIA HIGH-SPEED RAIL AUTHORITY REPRESENTATIVES:**

Thomas Fellenz, Council  
Chair

Jose Camarena, Director of  
Contract Compliance

Patricia Padilla, CHSRA –  
PMT

Olivia Fonseca, CHSRA –  
PMT

Lauren Jaquith, CHSRA –  
PMT

Emily Ryan, CHSRA – PMT

Austin Kidwell, CHSRA -  
PMT

### **MEMBERS PRESENT:**

AICC: Adam Holt

AAAE: Eddy Lau

AAa/e: Linden Nishinaga

CBCC: Aubry Stone

DVBA: Chris Coles

GFACC: Debbie Hunsaker

KMCA: Marvin Dean

LRRT: Paul Guerrero

LBA: Leonard Ortiz

NCA: Diana LaCome

SFAACC: Fred Jordan

WCOE: Lee Cunningham

SAME: Vida Wright

WTS: Maritza Acosta

### **MEMBERS ABSENT:**

ACEC: Arvin Chaudhary

ABA: Jason Kim

AGC: Sam Hassoun

CAACC: Tanya Motta

ESDVOBN: Rick Fowler

NAACP: Betty Williams

USPAACC: Clyde Wong

CHCC: Darrel Saucedo

NAMC: Peter Varma

### **ALTERNATES PRESENT:**

AAAE: Ellen Lee

KMCA: Emprezz Nontzikelelo

SFAACC: Dr. Caesar  
Churchwell

USPAACC: Mayling Liang

CHCC: Jesus Vargas

### **GUESTS**

Aaron Seth Kahn, Office of  
Assemblyman David Chiu

Hanson Lee, CAAC

Ray Manzanedo, Fresno  
Chamber of Commerce

Greg Richards, Business  
Exchange

Linda Richardson, ADR

Esther Shaw, CMAA – CODE

Ming Chen Yu, AAAE



## ***BUSINESS ADVISORY COUNCIL MEETING MINUTES***

### **ITEM I: WELCOME/INTRODUCTIONS (Thomas Fellenz, Council Chair)**

- Council Chair Fellenz opened the meeting at 1:13 p.m. by welcoming everyone. Council Chair Fellenz initiated introductions of members and guests present.

### **ITEM II: APPROVAL OF FEBRUARY MINUTES (Thomas Fellenz, Council Chair)**

- Council Chair Fellenz presented the draft minutes from the February 19, 2014 meeting.
- Member LaCome moved that the February 19, 2015 minutes be adopted. Member Ortiz seconded the motion. The minutes were adopted by majority vote.

### **ITEM III: ADMINISTRATIVE ITEMS (Thomas Fellenz, Council Chair)**

- Chairman Fellenz reminded members that, while they are welcome to coordinate networking and social events around Council meetings, they must not use the Authority's logo on flyers for these events or portray them as Authority-sponsored without the explicit permission of the Authority.
- Chairman Fellenz announced that the reaffirmation process has been completed and that travel letters have been mailed out to council members.
- Chairman Fellenz stated that an updated request tracking form was in members' packets and requested that the committees work to prioritize their requests and goals.

### **ITEM IV: COMMITTEE PLANNING SESSIONS OUTCOMES**

#### **CONSTRUCTION COMMITTEE (Diana LaCome)**

- The committee is requesting that Russell Fong and Hugo Mejias attend the June Council meeting to discuss the Authority's prompt payment practices and retention provisions.
- The committee requests that an aspiration goal be added to the five percent goal for Caltrain Electrification.
- Committee would like Authority to provide materials and stories for them to disseminate to their members.
- Due to issues arising from attendance, the committee voted to adopt the attendance provisions in the Council's guidelines for the committee.
- Further, the committee passed a motion requesting that all Council meetings be held in Sacramento.
- The committee reiterated its request for the Authority to set aside certain contracts exclusively for small businesses in order to foster small business participation on the project. The committee requested information on contracts that have already been set-aside for small businesses and that these contracts be designated as such.

#### **PROFESSIONAL SERVICES COMMITTEE (Vida Wright)**

- The committee determined that one of its goals, prompt award notices, had been achieved due to the authority's satisfactory posting of award notices in a timely manner.

- The committee added a goal for the Authority to adopt certain contracts tailored specifically for small businesses and set-aside for small businesses only.
- The committee prioritized its goals for 2015 and assigned committee members to work on drafting requests for each goal. The priorities are as follows:
  - That the Authority add Safe Harbor Rates to its list of options for calculating overhead rates in its Annual Work Program.
  - Ensuring prompt payment to subcontractors regardless of tier and putting strong incentives in place for prompt payment.
  - Proposing that all contracts, including third party contracts, include the 30/10/3 small and disadvantaged business utilization goal.
  - Improving the Authority's debriefing process in order for subcontractors that put in time and effort on proposals that do not win contract bids to receive feedback on why the team did not win the contract it pursued.
  - Separating the 30/10/3 goal in order for it to apply independently to both the design and build portions of a contract. The committee requested information on the utilization differential on the design and build work.
  - Improving Small Business Utilization form 103.
  - The Authority tailoring specific contract for small businesses.
- The committee also looked at its roster and voted to adopt the council's attendance by-laws for the committees operations.
- Member Lau made a motion to amend the Council guidelines to change the attendance requirement from removal at three consecutive missed meeting to removal at two consecutive missed meetings. Member LaCome initially seconded the motion but later withdrew her second. Member Acosta then seconded the motion.
  - Members Acosta and Cunningham both noted that members represent organizations on the council and that the organizations themselves should be informed when members are not attending the council meetings.
  - Member Nishinaga noted that council members are not reimbursed for travel expenses and that reimbursement would incentivize better attendance.
  - Members Jordan and Guerrero argued against the motion, stating that they thought it was too stringent of a requirement.
  - The motion was voted down, with three votes in favor and 13 against.
- Member Wright moved that the Council guidelines be amended to mandate that member organizations participate in at least one of the committees. Member Vargas seconded the motion.
  - Member Cunningham reiterated Member Nishinaga's earlier point that Council and Committee attendance would be enhanced if members were reimbursed.
  - The motion was voted down, with six votes in favor and ten against.

#### **ITEM V: PROJECT UPDATE (Jose Camarena, Director of Contracts and Compliance/Small Business Advocate)**

- The updated Plan-Ahead Procurement report is in members packets. The report details five contracts scheduled for procurement in spring and summer.
- The San Francisco to San Jose and San Jose to Merced Environmental/Engineering services contract will be advertized in spring and will be a five year, fifty million dollar contract.
- Project Construction Management for Construction Package Four is due out in the summer.
- The Tier III Trainset Contract will be advertized in spring and will be for five and a half years.

- The Quality and Risk Management Services contract will be for ten million dollars over five years and will be advertized in spring.
- An On-Call Geotechnical Services contract will be advertized in summer.
- Member Jordan requested clarification on the San Francisco to San Jose to Merced contract, and how it related to the work done on this section by HNTB and URS.
  - Chairman Fellenz answered that previous contracts on this section have expired and that this procurement will replace these contracts.
- Member Jordan asked about the Quality and Risk Management contract and clarification as to the work the contractor would be doing
  - Chairman Fellenz answered that it would be a small contract focused on project delivery on a statewide level and would render assistance to Authority staff on risk management.

**ITEM VI: SMALL AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM UPDATE (JOSE CAMARENA, DIRECTOR OF CONTRACT COMPLIANCE)**

- The Authority has been participating in a multitude of events with DGS, especially in the central valley.
- Certification workshops and small business workshops are being held on a monthly basis in Fresno, Bakersfield and Visalia.
- The Authority will begin more extensive outreach to Northern and Southern California later in the year.
- On April 24 the Authority will host a small business workshop in Bakersfield that will provide a range of information on all aspects of the High-Speed Rail project and will allow for feedback from and interaction with small businesses.
- On April 27 a certification workshop will be held in Fresno with on-site computers to assist small businesses with the certification process.
- Member Cunningham requested that council members be provided with a list of positive contributions the High-Speed Rail project is making in California and stated that members should be better provided with publicity materials by the Authority in order to facilitate Council members in promoting the Authority's work.
  - Chairman Fellenz and Mr. Camarena asserted that the Authority makes an effort to provide members with as many materials as possible and that they would work with the Office of Communications and External Affairs to better provide these materials to council members.
- Member Preston asked where members could find a shortlist for CP 4.
  - Mr. Camarena responded that it would be posted on the website once released and sent to council members via email.
- An RFP for Small Business Supportive Services is out. It will provide services to help grow small businesses and small business participation and is a two year contract
- The Authority has participated in a number of successful small business events recently:
  - On February 29 at the Caltrans District 4 Calmentor Program in Oakland Ricci Graham and Karen Massie connected with small businesses and provided information on working with the Authority.
  - On March 17 Michelle Boehm presented information on the small business program and job opportunities at the National Association of Women in Construction in Los Angeles.
  - On March 20 CEO Jeff Morales participated in a panel at the California Hispanic Chamber of Commerce's 2015 Economic Summit in Ontario, CA.
- The most recent Small Business Utilization report is in members packets.

- Members Dean and Nishinaga asked if this was a list of all contracts or a partial list.
  - Emily Ryan responded that it is a list of all Architecture and Engineering contracts with the small business program attached, as well as KPMG which has an aspirational goal. A full list with all contracts is emailed monthly to council members.
- Member Lau asked whether closed out contracts are reflected on this or another report.
  - Ms. Ryan answered that this report does not but that that previous Quarterly reports have reflected close out information and a foot note is added to reflect the contract is closed out.
- Member Jordan asked about total contract value and why some rows of the small business applicable contract value column are empty.
  - Ms. Ryan responded that for empty rows it indicated that the amendment that added the small business program did not add additional funds to the contract, which makes the applicable contract value zero.
- Construction Package 1 Update
  - TPZP is ten percent into their contract
  - Work on CP 1 is ongoing, including moving storm drains, geotechnical investigations, surveys and a second test pile at the San Joaquin River.
  - In summer the first structures will be built at either the San Joaquin River or Fresno River.
  - TPZP small business program commitments are currently at 30.22 percent for small business, 19.5 percent for disadvantaged businesses and 2.2 percent for disabled veteran businesses.
- Member Cunningham asked about the Authority's oversight of TPZP
  - Mr. Camarena responded that the Authority robustly monitors TPZP to ensure that its reports are accurate and that SB certifications are valid and up-to-date.
- Member Ortiz asserted that actual Small Business attainment numbers were low on TPZP's contract thus far and asked how the Authority can ensure TPZP will catch up and meet its goal
  - Mr. Camarena responded that Authority projections are based on changing construction schedules
  - Ms. Jaquith stated that TPZP's performance plan is public and that weekly, bi-weekly and quarterly meetings are held to oversee TPZP's small business utilization. Any changes to TPZP's SB subcontractors are posted to the website.
- Member Jordan asked for a list of firms on commitment, especially those in California
  - Ms. Ryan responded that this list is provided in the Quarterly Small Business and Jobs Report that is sent out to members.
- Member Guerrero indicated that at an Authority Board meeting it was stated that if a contractor fails to meet its SB commitment that the monetary difference between the shortfall and the goal would be withheld from the prime contractor. Member Guerrero asked if this was the case.
  - Mr. Camarena stated that there are several administrative remedies based in the Small Business Program Plan and that these remedies would be sent out to council members.
- Member Coles expressed his view that contractors often fail to utilize small businesses sufficiently during the design process and use the explanation that this shortfall will be made up for in construction, but that contractors then often fail to meet the goal during construction, by which time work concludes and the shortfall cannot be rectified. Member Coles stated that this is unfair to Professional Services and reiterated the Professional Services committee's request that the design and build portions of the contracts be independently held to the 30/10/3 goal.
  - Ms. Jaquith responded that the utilization rate on professional services and construction have been about even thus far.

#### **ITEM VII: PUBLIC COMMENT**

- Member Dean announced that the Kern Minority Contractors Association would be holding a conference on June 17<sup>th</sup> in Bakersfield on High-Speed Rail and transportation projects and invited members to attend.
- Member Guerrero raised concerns regarding the Authority's environmental justice policies and expressed concerns with the Authority's approach to environmental justice.
  - Member LaCome and Linda Richardson also expressed that the Authority must have strong environmental provisions in place and that they are concerned that the Authority will face legal action on environmental justice.
  - Member Wright respectfully disagreed and stated that the Authority had addressed environmental justice in its Environmental Impact Report for Fresno to Bakersfield. Member Acosta agreed with Member Wright and stated that she had earlier worked on the High-Speed Rail project alignment with Parsons Brinckerhoff and that environmental justice concerns heavily influenced the alignment of the High-Speed Rail project.
  - Member Ortiz requested the Authority to provide the members with information on environment justice. Council Chair Fellenz agreed to provide the information to the members.

#### **ITEM VIII: ADJOURNMENT**

- Council Chair Fellenz adjourned the meeting at 3:18 p.m.